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BALANCE BAR COMPANY  
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10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 OAKLAND DIVISION  
13

14 KIMBERLY S. SETHAVANISH, a California  
resident on behalf of herself and all others  
15 similarly situated,

16 Plaintiff,

17 v.

18 BALANCE BAR COMPANY, a Delaware  
corporation,

19 Defendant.  
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Case No. 4:11-cv-04547-PJH

**STIPULATION AND [PROPOSED]  
ORDER CONTINUING JANUARY 5,  
2012 INITIAL CASE MANAGEMENT  
CONFERENCE AND  
ACCOMPANYING DEADLINES [L.R.  
6-2, 7-12]**

1 Pursuant to Local Rules 6-2 and 7-12, Plaintiff Kimberly Sethavanish and Defendant  
2 Balance Bar, Inc., through their undersigned counsel, enter into the following stipulation for and  
3 respectfully request that the Court issue an order (1) continuing the scheduled January 5, 2012  
4 initial case management conference to April 19, 2012; (2) continuing the accompanying  
5 discovery deadlines set by this Court in its September 13, 2011 Order Setting Initial Case  
6 Management Conference And ADR Deadlines, Dkt. No. 4. In support of this stipulation, the  
7 parties represent that:

8 WHEREAS, on September 13, 2011, Sethavanish filed her initial complaint, Dkt. No. 1;

9 WHEREAS, on September 13, 2011, the Court issued its Order Setting Initial Case  
10 Management Conference And ADR Deadlines (attached hereto as Exhibit A), which Order  
11 scheduled an initial case management conference before the Court on January 5, 2012 in  
12 Courtroom 3, 3rd Floor, at 2:00 p.m. and set accompanying deadlines (1) to meet and confer  
13 regarding discovery, (2) to file ADR-related documents; and (3) to file a Rule 26(f) report;

14 WHEREAS, on September 30, 2011, the parties stipulated to allow Balance Bar  
15 an extension of time to respond to the initial complaint until November 4, 2011, Dkt. No. 6;

16 WHEREAS, on November 4, 2011, Balance Bar filed a motion to dismiss in part the  
17 initial complaint, Dkt. No. 11;

18 WHEREAS, on November 18, 2011, Sethavanish filed a first amended complaint, Dkt.  
19 No. 12;

20 WHEREAS, on December 2, 2011, Balance Bar filed a motion to dismiss in part the first  
21 amended complaint, setting the hearing on the motion for January 25, 2012, Dkt. No. 13;

22 WHEREAS, following the hearing on the motion to dismiss, the parties have agreed to  
23 pursue private mediation, to be completed within 60 days from the hearing;

24 WHEREAS, the parties submit that continuance of the initial case management  
25 conference and the accompanying discovery deadlines until after the Court decides Balance Bar's  
26 pending motion to dismiss, after Balance Bar answers the first amended complaint, and after the  
27 parties pursue private mediation within 60 days of the hearing on the motion to dismiss will  
28 preserve party and Court resources and, should the parties not settle the case through private

mediation, will enable the parties better to assess the strengths and weaknesses of their cases and to make more informed decisions regarding discovery,

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING, IT IS HEREBY STIPULATED by and between the parties that:

1. The initial case management conference scheduled for January 5, 2012, is continued to April 19, 2012, in Courtroom 3, 3rd Floor, at 2:00 p.m.;

2. The last day to meet and confer regarding initial disclosures and discovery plan is continued to March 29, 2012. The parties will submit their ADR Certification and Stipulation to ADR Process in accordance with the schedule prescribed by the Court's September 13 order.

3. The last day to file the Rule 26(f) Report, complete initial disclosures or state objection in Rule 26(f) report and file Case Management Statement is continued to April 12, 2012.

Dated: December 14, 2011

ORRICK, HERRINGTON & SUTCLIFFE LLP

By: /s/ Norman C. Hile

Norman C. Hile  
Attorneys for Defendant  
BALANCE BAR COMPANY

Dated: December 14, 2011

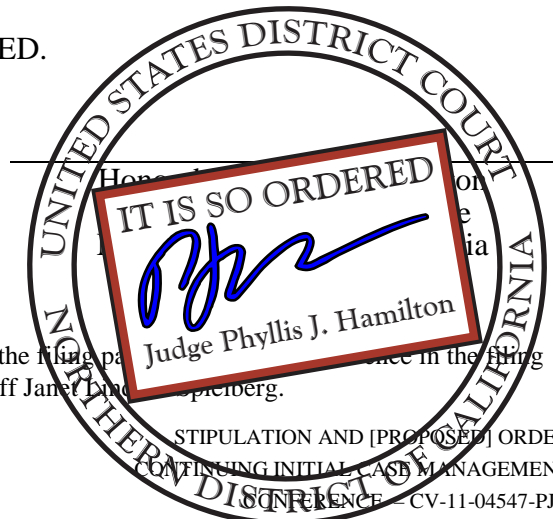
LAW OFFICES OF JANET LINDNER  
SPIELBERG

By: /s/ Janet Lindner Spielberg<sup>1</sup>

Janet Lindner Spielberg  
Attorneys for Plaintiff  
KIMBERLY S. SETHAVANISH

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: December 21, 2011



<sup>1</sup> Pursuant to Section X of Northern District Standing Order 45, the filing of this document has been obtained from counsel for Plaintiff Janet Lindner Spielberg.